

BEFORE THE TENNESSEE REGULATORY AUTHORITY

Nashville, Tennessee

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REGULATORY AUTH.
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OFFICE OF THE
EXECUTIVE SECRETARY

IN RE: GENERIC DOCKET TO
CONSIDER TECHNOLOGY
ADVANCES

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Docket No. 02-00434

MOTION FOR RECONSIDERATION

The Association of Communications Enterprises; AT&T Communications of the South Central States, LLC and TCG Midsouth, Inc.; Cinergy Communications Company; DIECA Communications, Inc. d/b/a Covad Communications Company; ITC^DeltaCom Communications, Inc. d/b/a ITC^DeltaCom; MCI WorldCom Communications, Inc., MCImetro Access Transmission Services, LLC, Brooks Fiber Communications of Tennessee, Inc; Network Telephone Corporation; and NewSouth Communications Corp., Birch Telecom of the South, Inc. (collectively, the "CLECs") hereby file this Motion for Reconsideration of the Order entered in this matter on June 13, 2002 ("June 13 Order").

As noted in the CLECs' comments in this matter, this proceeding has its origins in docket 97-01262 (the "Permanent Prices" docket) in which the Tennessee Regulatory Authority ("Authority") set rates for unbundled network elements using a loop sample costing methodology developed by BellSouth Telecommunications, Inc. ("BellSouth"). The Authority noted that BellSouth had developed a new cost model, the "BellSouth

Telecommunications Loop Model" ("BSTLM") which had been filed in other states¹ but not in Tennessee. BellSouth stated (and the CLECs continue to concur) that the newer model reflected and reflects more up-to-date, and more efficient, technologies. Second Interim Order at 10-11. Rather than ordering BellSouth to file the new BSTLM study in Tennessee at that time, the Authority decided to convene a "new generic docket" at a later time to evaluate the impact of new technologies on UNE rates. *Id.* The consideration taking place in this proceeding is that "later time" at which the Authority decided to consider BellSouth's new loop model as well as other technology advances.

In the CLECs' comments in this matter, they set forth with some specificity which UNEs should be reevaluated in this proceeding and why technology has impacted these UNEs. This contrasts sharply with BellSouth's terse statement that *no* UNE rates require review as a result of technology advances. It does not appear that BellSouth devoted much in the way of resources to truly examining whether certain of the UNE rates in Tennessee may indeed be too high today because of advances in technology.

The newest cost case in this region is the pending case in North Carolina, established April 19, 2002. That case has not yet gone to hearing. Simply examining BellSouth's proposed UNE rates, however, one can find examples of rates that have decreased, according to BellSouth, since the UNE proceeding in Tennessee. One quick example is Analog End Office Switching. The rate established by the Authority is \$.0008041 while the new rate *proposed* by BellSouth in North Carolina is \$.0007010. Similarly, the rate for Common Transport in Tennessee was set at \$.0003871 and the rate

¹ With the commencement of a new UNE costing proceeding in North Carolina (Generic Proceeding (P-100 Sub 133D), BellSouth has now filed the BSTLM for use in costing loops in every one of its states other than Tennessee.

recently *proposed* by BellSouth for the same element in North Carolina is \$.0002380. Likewise, the Per Mile rate for Common Transport was set in Tennessee at \$.0000064 and BellSouth has proposed a rate in North Carolina of \$.0000035. Whether actual technology advances have led to these decreases or whether advances in the methods of determining cost have improved, the bottom line is that, for many UNEs, costs have come down since the Authority last examined and established UNE rates.

In the June 13 Order, the Hearing Officer ordered the CLECs to supplement their comments "by providing a detailed description of the technology advance impacting each item listed in the Attachment to the *Consolidated CLEC Comments* and describe in detail how that advance has reduced the cost of the item." The CLECs respectfully disagree that this is an appropriate way to proceed.

Requiring the CLECs to, basically, prove their entire case before the Authority establishes the scope of the proceeding and determines what will be accomplished in the docket is not reasonable. The CLECs have put forth sufficient information to permit the Authority to decide whether to move forward to reexamine UNE rates. In addition to the actual telecommunications technology advances that have caused UNE rates to decline is the fact that the cost modeling, particularly for loops, now available for consideration in Tennessee is significantly superior to that which the Authority had before it in Docket No. 97-01262. Indeed this fact alone appears to be what motivated the Authority to establish this docket in the first place.

The CLECs respectfully request that that Authority reconsider requiring them to put on their entire case at this early stage in this proceeding. The CLECs would ask the Authority to determine the scope of the proceeding (which the CLECs believe ought to be

a revisiting of all UNE rates in Tennessee) and establish a procedural schedule in this matter, the first step in which should be requiring BellSouth to file the BSTLM for Tennessee as well as its other revised and updated cost studies.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'H. Walker', is written over a horizontal line.

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been forwarded via fax or hand delivery and U.S. mail to the following on this the 28th day of June, 2002.

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